IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
LETTERS PATENT APPEAL NO.187 OF 2007
IN
WRIT PETITION NO.880 OF 1992

Shri Sumarsingh Ganpatsingh Pardeshi .... Appellant.

V/s

Karmala Taluka Education Society and Ors. .... Respondents.

Mr. A.M. Joshi for the Petitioner.

Mr. Nitin Dhumal for Respondent No.1.

CORAM : D.K. DESHMUKH &
V.M. KANADE, JJ.
DATE : 26th November, 2007.

P.C.:

1. By this L.P.A, the appellant challenges the order passed by the learned Single Judge in a Writ Petition. In Writ Petition, the appellant - petitioner had challenged the order passed by the School Tribunal, dismissing his appeal. The learned Single Judge in the order itself has held that he is entertaining the Petition under Article 227. The learned Counsel appearing for the appellant submits that because the learned Single Judge has examined the question of inter se seniority between the Petitioner and the respondent No.2

in his order, it amounts to exercise of jurisdiction under Article 226 and not under Article 227.

2. What is to be seen here is that in the Petition that the Petitioner had filed, an order merely setting aside the order of the appeal court would not have been enough. In order to grant complete relief to the Petitioner, a further direction to the Management to promote the Petitioner would be necessary. Essentially, therefore, it would be a Petition under Article 227 and, as the learned Single Judge has, in terms, stated that he is entertaining the Petition under Article 227 of the Constitution of India and in view of the judgment of the Supreme Court in the case of Lokmat News Papers Pvt. Ltd. Vs. Shankar Prasad, reported in **(1999) 6 SCC 275** and the judgment of the Supreme Court in the case of Kanhaiyalal Agrawal and Others Vs. Factory Manager, Gwalior Sugar Company Ltd., reported in **(2001) 9 SCC 609,** in our opinion, this Letters Patent Appeal would not be maintainable as the order is passed by the learned Single Judge under Article 227 of the Constitution of India.

3. Appeal is disposed of.

(D.K. DESHMUKH, J.)

(V.M. KANADE, J.)